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In re Application of :
SLIVKA et al. :
Application No.: 09/297,589 :
PCT No.: PCT/US96/19055 :
Int. Filing Date: 27 November 1996 : NOTIFICATION
Priority Date: N/A :
Attorney Docket No.: DN1996221USA :
For: AIRCRAFT TIRE WITH IMPROVED HIGH :
SPEED PROPERTIES :

This is a notification regarding applicants' submission filed 04 May 1999.

BACKGROUND

On 27 November 1996, applicant filed international application PCT/US96/19055. A Demand for international preliminary examination, in which the United States was elected, was filed on 18 June 1998, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 27 May 1999.

On 04 May 1999, applicants filed a TRANSMITTAL LETTER (FORM PTO-1390) for entry into the national stage in the United States which was accompanied by, *inter alia*: the U.S. Basic National Fee, a copy of the International Preliminary Examination Report, a declaration of the inventors, and a "substitute specification".

On 24 June 1999, the USPTO mailed a NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form DO/EO/903) indicating, *inter alia*, that the above-identified application had been accepted for entry into the national stage in the United States and according the above-identified application number 35 U.S.C. 102(e) and 371(c) dates of 04 May 1999.

DISCUSSION

The instant application was filed under 35 U.S.C. 371, as evidenced by the Transmittal Letter filed 04 May 1999 which states that the submission is a "filing under 35 U.S.C. 371". The specification which was entered as the specification to be examined by the United States

Designated/Elected Office (DO/EO/US) was the "substitute specification"¹ submitted on 04 May 1999. This specification was entered improperly, however. The "substitute specification" should not have been entered because it did not comply with 37 CFR 1.125; it was not accompanied by a marked-up copy of the specification showing the matter being added and deleted. The specification which should have been entered by the DO/EO/US is the copy of the international application as communicated to the USPTO from the International Bureau on 04 June 1998.

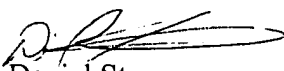
The declaration filed 04 May 1999 is defective in that it fails to properly identify the specification to which it is directed, as required under 37 CFR 1.497(a)(2). The declaration identifies and executes the specification attached to the declaration, i.e., the "substitute specification", rather than the international application. Thus, the requirements of 35 U.S.C. 371(c) for entry into the national stage in the United States of America were not completed as of the 35 U.S.C. 102(e) and 371 dates indicated in the NOTIFICATION OF ACCEPTANCE mailed 24 June 1999.

CONCLUSION

For the reasons set forth above, the 24 June 1999 NOTIFICATION OF ACCEPTANCE is hereby VACATED.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for processing in accordance with this decision, that is for (1) removal of the "substitute specification" and replacement with the international application as communicated to the USPTO from the International Bureau on 04 June 1998, and (2) preparation and mailing of a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for submitting the declaration later than thirty months from the priority date.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the PCT Legal Office.



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¹It is noted that the "substitute specification" was accompanied by a copy of what appears to be a cover letter addressed to the European Patent Office. This cover letter states that the "substitute specification" is "[i]n [r]esponse to the Examination Report mailed 03 September 1998".